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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,628	07/05/2001	Dae-Gyun Kim	678-704(P9825)	5139
7590	09/06/2005		EXAMINER	
Paul J. Farrell, Esq. DILWORTH & BARRESE, LLP 333 Earle Ovington Blvd. Uniondale, NY 11553				LEE, CHI HO A
		ART UNIT		PAPER NUMBER
		2663		

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/899,628	KIM ET AL.	
	Examiner	Art Unit	
	Andrew Lee	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 8,9,12-16,19-33 and 37-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 8,9,12-16,19-33 and 37-48 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8, 9, 12-16, 20-33, 37-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Laakso U.S. Patent Number 6,671,512.

Re Claims 1, 8, 30, Laakso teaches calculating the total load by measuring interference from all uplink connections to the BS (See col. 11, lines 30-60). The Scheduler Means in the base station calculates the PrxNrt and PtxNrt in connection basis of each NRT users (calculating a load share of each AT) in determining the total load to the Base station wherein the uplink rate (reverse data rate) based on the PrxTotal (total load for NRT users) having exceeded the Eb/NO target value associated with the NRT user (individually selected for the AT) (See col. 13, lines 44-64 & col. 14, lines 15-43).

Re Claims 2, 9, 16, 40, refer to Claim 1, wherein the transmission rate is increased/decreased based on the comparison between the total load and the predetermined threshold for each RT and NRT users.

Re Claims 3, 10, 17, refer to Claim 1, wherein the biggest load factor LUplink is reduce according (See col. 14, lines 1-5) (ascending order).

Re Claims 4, 11, 18, refer to Claim 1, wherein the adjustment is based on the priority of (descending order) the NRT/RT traffic users and it's associated data rates.

Re Claims 5, 12, 20, 37, refer to Claim 1, wherein the total energy received by the base station is inherently dependent on the total number of traffic users (the volume of data received from the plurality of ATs).

Re Claims 6, 13, 21, 38, refer to Claim 1, wherein the total energy inherently includes a energy received from adjacent cells.

Re Claims 7, 14, 22, 39, refer to Claim 1, wherein thermal noise is interference.

Re Claim 15, refer to Claim 1, wherein base station compares the total load and the total capacity of uplink and the RNC modifies the predetermined Power estimate in the base station (AN) based on result of the total load of the Uplink channel (controlling the thresholds) (See col. 11, lines 1-30 & also Col. 16, lines 30-55).

Re Claim 23, refer to Claim 15, wherein the Target threshold level is different for RT and NRT traffic users (thresholds are determined separately for each AT).

Re Claims 24, 25, 41, 42, refer to Claim 23, wherein the adjustment function has a value of (0.5dB) (a value less than 1) (See col. 14, lines 15-43).

Re Claims 26-29, 32, 43-46 refer to Claims, 15, 24, wherein the modified threshold from initial threshold (value) in the base station (the variable is decreased) varied up to a predetermined capacity as set by the network operator, wherein the

threshold is modified to return the total load experience at the Base station at an acceptable level (the variable is set to a larger/smaller value) (See col. 14, lines 53-68 & col. 16, lines 24-56).

Re Claims 31-35, refer to Claims 15, 3, 4, wherein the BS supports CDMA, hence it is inherent the transmitter in the Base station to include a spreader and a rate generator, wherein the determined and adjusted reverse link is based on the total load and the target threshold value.

3. Claims 47 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Tiedemann, Jr. et al U.S. Patent Number 5,914,950.

Re Claims 47 and 48, fig. 3 teaches a Reverse Link Rate Scheduler, in the access network (See fig. 2), for determining rate control information based on the reverse link capacity/load and sending, from access network, the maximum rate information to each remote stations based on the collected information, wherein after the remote receives the rate control information, the remote transmits the packet data accordingly (See col. 9, lines 24-50).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laakso U.S. Patent Number 6,671,512 in view of Rostoker et al U.S. Patent Number 6,111,863.

Re Claim 19, Laakso fails to explicitly teach “generator assigns a low service priority to an AT having a higher service priority greater than a predetermined number of times.”. However, Rostoker teaches in a CDMA system, the priority assignment can be changed whereby the video signal is transmitted over the entire RF bandwidth until the video buffer is empty (a predetermined number of times)

(See col. 4, lines 48-68). In so doing, the high video quality can be enhanced. Hence, depending on the request, the fidelity of the selected data type can be improved. One skilled in the art would have been motivated by Rostoker to change the priority of the AT in Laakso to provide quality video communication capability to a RF communication system. Therefore, it would have been obvious to one ordinary skilled to combine the teaching of Rostoker et al into the teaching of Laakso.

Response to Arguments

6. Applicant's arguments filed 6/24/05 have been fully considered but they are not persuasive.

Re Claims 8, 15, 30, “*individually handling the reverse data rates of each AT included in the communication system*” is not claimed.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 571-272-3130. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AI

8/30/05

ANDY LEE
PATENT EXAMINER

